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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/677,296	10/03/2003	Brian D. Kessler	KESSLER63A	9647

1444 7590 12/13/2005

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EXAMINER

HWANG, VICTOR KENNY

ART UNIT	PAPER NUMBER
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3764

DATE MAILED: 12/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/677,296	KESSLER, BRIAN D.	
	Examiner	Art Unit	
	Victor K. Hwang	3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 2/4/05, 3/25/04, 10/3/03.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 7-10 is/are rejected.
- 7) ☒ Claim(s) 5 and 6 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

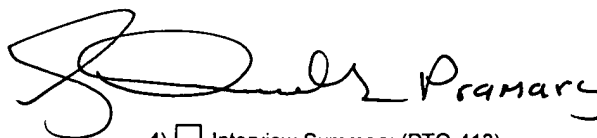
Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/05, 3/04, 10/03.

 Primary

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by *Coram* (US Pat. 6,361,480 B1). *Coram* discloses a device comprising an elongated connector 28 having a first end and a second end 32, a ring 16 at the first end and a rotatable element 12 at the second end of the elongated connector. The elongated connector 28 is rotatable relative to the ring 16. The elongated and rotatable connector 28 is further provided with a configuration whereby different appearances occur as the elongated connector 28 rotates relative to the ring 16. The connector 28 has facets that would provide different appearances as the connector rotates relative to the ring.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1 and 2 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over *Chang* (US Pat. D478,136 S). *Chang* discloses an ankle jumper entertainment device comprising an elongated connector that is a flattened and twisted element. The elongated connector is connected at a first end to a ring and at the second end to a rotatable element. The use of the device is shown in Fig. 8, wherein the ring is placed about a user's ankle and the rotatable element spins about the user's ankle while being tethered to the ring by the elongated connector.

It is well known in the art that in these types of devices, the rotatable element rolls on a ground surface during use. In looking at the drawings, it can be seen that there appears to be a swivel-type connection between the elongated connector and the ring.

Chang does not specifically disclose that the connection between the ring and the elongated connector is a swivel-type joint permitting the elongated connector to rotate relative to the ring.

It would have been obvious to one having ordinary skill in the art at the time the invention was made that the connection of *Chang* between the ring and the elongated connector is a swivel-type joint permitting the elongated connector to rotate relative to the ring, since the drawings appear to show a swivel-type joint and a swivel-type joint would permit use of the device as shown in Fig. 8.

5. Claims 3, 4 and 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Chang* (US Pat. D478,136 S) as applied to claims 1 and 2 above, and further in view of *Kessler* (US Pat. 5,092,809). *Chang* discloses the invention as claimed except for the elongated

connector formed of polycarbonate resin (claims 7-10) and/or formed of a translucent or transparent plastic and containing one or both of a fluorescent dye and decorative flakes or particles (claims 3 and 4).

Kessler '809 discloses a rotating toy comprising polycarbonate resin material that is translucent or transparent and containing one or both of a fluorescent dye and decorative flakes or particles. This material presents a pleasing and exciting visual display.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the device of *Chang* with an elongated connector made of polycarbonate resin material, the material being translucent or transparent and containing one or both of a fluorescent dye and decorative flakes or particles, since *Kessler '809* teaches that such a material for a toy provide a pleasing and exciting visual display.

Allowable Subject Matter

6. Claims 5 and 6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: the prior art does not disclose different colors on opposite faces of an opaque plastic elongated connector.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Donnellan (US Pat. 554,992), *Warner* (US Pat. 1,333,005), *Ono* (US Pat. 3,075,767), *Harrison* (US Pat. 3,410,554), *Gonzalez* (US Pat. 4,221,074) and *Haygood et al.* (US Pat. 5,597,159) disclose devices having structure readable upon at least the limitation of claim 1.


8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor K. Hwang whose telephone number is (571) 272-4976. The examiner can normally be reached Monday through Friday from 7:30 AM to 4:00 PM Eastern time.

The facsimile number for submitting papers directly to the examiner for informal correspondence is (571) 273-4976. The facsimile number for submitting all formal correspondence is (571) 273-8300.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory L. Huson can be reached on (571) 272-4887.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Victor K. Hwang
December 9, 2005


Primary